

BAY COUNTY ELECTION COMMISSION
SEPTEMBER 15, 2000

THE BAY COUNTY ELECTION COMMISSION MET FOR A CLARITY HEARING ON FRIDAY, SEPTEMBER 15, 2000, IN THE CONFERENCE ROOM ON THE FOURTH FLOOR OF THE BAY COUNTY BUILDING. THE MEETING WAS CALLED TO ORDER BY CHAIRMAN KAREN A. TIGHE AT 4:50 P.M. WITH THE FOLLOWING MEMBERS AND GUESTS PRESENT:

ROLL CALL: COUNTY TREASURER JEANETTE E. NEITZEL
 COUNTY CLERK LINDA L. TOBER
 PROBATE COURT JUDGE KAREN A. TIGHE, CHAIRMAN

ALSO LORAINA A. ROSECRANS, SECRETARY TO THE COUNTY CLERK
PRESENT: THURMAN T. ELSWICK, PETITIONER
 MARTY MURPHY, CITY OF BAY CITY RESIDENT
 VIRGINIA HUTTER, CITY OF BAY CITY RESIDENT
 JAMES M. HAMMOND, ATTORNEY FOR CITY COMM. MARY BLEAU
 DANA L. MUSCOTT, CLERK, CITY OF BAY CITY
 JAN CURRIE, DEPUTY CLERK, CITY OF BAY CITY
 OTHER INTERESTED PARTIES

CHAIRMAN TIGHE ANNOUNCED THIS MEETING WAS IN REGARD TO A PROPOSED RECALL PETITION SUBMITTED BY THURMAN T. ELSWICK DATED AUGUST 30, 2000, AGAINST 4TH WARD CITY COMMISSIONER MARY BLEAU. SHE EXPLAINED THAT THE PURPOSE OF THE MEETING WAS TO DETERMINE THE CLARITY OF THE WORDING ON THE RECALL PETITION WHICH STATES, "FAILURE TO APPROPRIATELY REPRESENT THE TAXPAYER'S OF THE 4TH. WARD OF THE CITY OF BAY CITY BY VOTING TO APPROVE THE CITY'S BUDGET FOR FISCAL YEAR 2000/2001."

MS. BLEAU'S ATTORNEY, JAMES HAMMOND, STATED THAT IT WAS HIS UNDERSTANDING THAT THE PURPOSE OF THIS CLARITY HEARING IS TO DETERMINE WHETHER THE LANGUAGE IN THE RECALL PETITION IS OF SUFFICIENT CLARITY TO AUTHORIZE THE PETITION TO BE CIRCULATED AND SIGNED AND THAT THERE IS NO NEED TO TAKE TESTIMONY, BUT THAT COMMENTS CAN BE MADE, WHICH MR. HAMMOND WAS PREPARED TO DO ON MS. BLEAU'S BEHALF.

THE CHAIRMAN CALLED ON MR. ELSWICK TO COMMENT, AND HE STATED THAT THE LANGUAGE WAS VERY CLEAR AND THAT HE HAD NO FURTHER COMMENTS.

VIRGINIA HUTTER STATED THAT, AS A CONSTITUENT AND TAXPAYER OF THE CITY OF BAY CITY, SHE WAS UNSURE OF THE DEFINITION OF "APPROPRIATELY" AS USED IN THE PETITION. MR. ELSWICK'S RESPONSE WAS THAT MS. HUTTER DOES NOT LIVE IN THE 4TH WARD; THEREFORE, THIS PETITION DOES NOT CONCERN HER.

MR. HAMMOND STATED THAT MS. BLEAU MUST UNDERSTAND WHAT CONDUCT TO ADDRESS TO JUSTIFY TO HER CONSTITUENTS THAT SHE SHOULD CONTINUE TO REPRESENT THEM. SOME OF HIS QUESTIONS WERE: TO WHAT GROUP OF PEOPLE DOES "TAXPAYER" REFER (VOTERS, RESIDENTS, AND/OR TAXPAYERS)? WHICH SPECIFIC ASPECT OF THE CITY'S BUDGET IS OBJECTIONABLE? MR. HAMMOND STATED MS. BLEAU WOULD BE UNABLE TO ADDRESS A PARTICULAR COURSE OF CONDUCT, SINCE THE LANGUAGE IS TOO BROAD, GENERAL, AND VAGUE; THEREFORE, HE ASKED THE BOARD TO FIND THAT IT LACKS SUFFICIENT CLARITY.

COUNTY CLERK TOBER ALSO QUESTIONED THE WORD "APPROPRIATELY." OTHERWISE, SHE THOUGHT THE STATEMENT WAS CLEAR AND CONCISE.

COUNTY TREASURER NEITZEL COMMENTED THAT THE DEFINITION OF "TAXYPAYER" MAY NOT BE IMPORTANT, SINCE IT IS ONLY REGISTERED VOTERS WHO CAN SIGN THE PETITION. SHE ALSO DID NOT SEE A PROBLEM WITH THE WORD "APPROPRIATELY."

THE CHAIRMAN CITED THE COURT OF APPEALS CASE OF MEYERS VS. PATCHKOWSKI, 216 MICH APP 513, WHICH FOUND THE FOLLOWING LANGUAGE ON A RECALL PETITION TO BE CLEAR:

THROUGH HIS OR HER DUTIES AS AN ELECTED MEMBER OF THE ROGERS CITY AREA SCHOOLS SCHOOL BOARD, THE PARTICULAR BOARD MEMBER HAS FAILED TO REPRESENT THE BEST INTERESTS AND TRUE WILL OF THE MAJORITY OF THE ELECTORATE OF ROGERS CITY AREA SCHOOLS SCHOOL DISTRICT FOR THE FOLLOWING REASON: ON FEBRUARY 14, 1994, THE PARTICULAR SCHOOL MEMBER VOTED NOT TO RENEW OR EXTEND THE EMPLOYMENT CONTRACT OF THE SUPERINTENDENT.

CHAIRMAN TIGHE INDICATED THAT THE ABOVE LANGUAGE WAS SIMILAR TO THE LANGUAGE IN TODAY'S PETITION. ALL THREE BOARD MEMBERS AGREED THAT THE BOARD'S PURPOSE IS NOT TO DETERMINE THE TRUTH OF THE ALLEGATION, ONLY THAT THE LANGUAGE IS CLEAR. CHAIRMAN TIGHE BELIEVED THAT MS. BLEAU HAD ENOUGH INFORMATION TO ADEQUATELY DEFEND HERSELF TO SAY WHETHER SHE DID VOTE AS STATED AND TO JUSTIFY SAME.

CHAIRMAN TIGHE MOVED TO APPROVE THE PROPOSED LANGUAGE ON THE RECALL PETITION. IT WAS SECONDED BY JEANNETTE NEITZEL AND PASSED BY VOICE VOTE, 3 YEAS, 0 NAYS.

THE ELECTION COMMISSION MEETING WAS ADJOURNED AT 5:05 P.M.

RESPECTFULLY SUBMITTED,

LINDA L. TOBER, BAY COUNTY CLERK